



STATE OF LOUISIANA
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June 28, 2006

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Secretary Dortch:

Re: Request for Waiver of:

- **47 CFR 54.504 to permit substitution of eligible schools not originally listed on Funding Year 2004 FCC Form 471 No. 412169 and**
- **47 CFR 54.505 and 54.507 to treat all schools directly affected by Hurricane Katrina and receiving internal connections through New Orleans Public Schools at the highest level of priority for Priority Two services (i.e., 90 percent) for funds remaining available from Funding Year 2004 FCC Form 471 No. 412169**

In Order to Expedite Recovery from the Effects of Hurricane Katrina

On October 14, 2005, the Federal Communications Commission (FCC) issued an Order "to assist the victims of Hurricane Katrina by making available approximately \$211 million of targeted support from the Universal Service Fund."¹ That Order provided relief under three Universal Service Support Mechanisms to help in the recovery from the devastating effects of Hurricane Katrina. In particular, it provided relief under the Schools and Libraries Universal Service Support Mechanism for eligible schools and libraries that were directly or indirectly affected by Hurricane Katrina. The Order noted that the specific provisions of the Order were not the only relief that might be available to affected schools and libraries:

At the outset, we note that, in a number of instances, our rules explicitly provide participants in the schools and libraries program with specific requirements for requesting extensions of deadlines or waivers of certain Commission rules due to the occurrence of unforeseen events such as Hurricane Katrina. Thus, we emphasize that the actions taken here do not represent the entirety of the relief that may be available to E-rate program participants in affected areas. We are committed to addressing all requests for hurricane assistance in an expeditious manner.²

It is in the spirit of this paragraph that New Orleans Public Schools (NOPS), the State Department of Education and the State Department of Education's Recovery School District request the Commission to grant a waiver of the requirements of 47 CFR 50.504(c) (with respect to the FCC Form 471) to permit NOPS to substitute some schools that were not originally listed on its Funding Year (FY) 2004 Forms 471 and of 47 CFR 54.505 in order to permit all schools in the

¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 20 FCC Rcd 16883 (2005) (*Hurricane Katrina Order*).

² *Hurricane Katrina Order*, para. 40.

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New Orleans metropolitan area that would receive internal connections funding remaining available within the NOPS Funding Year 2004. Additionally, NOPS, the State Department of Education and the Recovery School District request to receive that funding at a 90 percent discount rate.

If this petition is granted, NOPS will be able to use available E-rate funds for FY 2004 to wire and equip schools that were damaged by Hurricane Katrina but that, with this equipment and wiring, would be able to open for the 2006-2007 school year with telecommunications capability. We have consulted with senior officials of the Universal Service Administrative Company (USAC), who have advised us that USAC does not have authority under existing rules to authorize the substitutions we seek. Therefore, we have come to the Commission.

We believe our request is very much in the spirit of the *Hurricane Katrina Order* – if granted, NOPS would use available E-rate funds to expedite the wiring of existing, damaged schools to make them available to educate New Orleans students for the upcoming school year.

But time is of the essence in this matter. The recovery work will have to be completed during the summer months of 2006 for these schools to be able to reopen for the new school year. Therefore, we ask the Commission to honor its promise to act in “an expeditious manner” to consider and grant our petition.

BACKGROUND

NOPS received a Funding Commitment Decision Letter for FCC Form 471 # 412169 for FY 2004 internal connections funding dated March 24, 2005. Three FRNs on Form 471 (1135675, 1137610, and 1137654) are associated with IBM³ and include funding for equipment and wiring. The approved discount for these FRNs is 88 percent, and the total funding committed is \$767,453.07. Because of the late timing of the FCDL, the change in service provider, and the fact that Hurricane Katrina struck New Orleans only six months later, very little work was done under these FRNs and no invoices have been submitted to USAC.

Listed in Attachment I are the 110 schools that were included in the Block 4 worksheet cited on the IBM FRNs on Form 471 No. 412169. For comparison, on its Priority One applications for that year, NOPS listed 119 schools with a shared discount of 85 percent.

Many of these schools have not reopened since the storm; some have reopened as charter schools with new names and/or Entity Numbers, some schools not on this list in 2004 have reopened or are scheduled to be reopened, and some schools have reopened or will reopen under the control of the Louisiana State Department of Education’s Recovery School District (RSD) based upon new Louisiana State Legislation.⁴

³ Originally, these FRNs were associated with Systems Engineering and Management Associates (SEMA), Inc., but NOPS requested and USAC approved a SPIN change to IBM.

⁴ Louisiana state law that created the Recovery School District allows the Louisiana State Department of Education to take administrative control of any academically failing school within the state for a period of five years in order to bring the schools up to state academic standards. The Department of Education can either place the school under the Recovery School District’s administrative control or create a charter school under the control of RSD and the chartering agency’s board control. At the end of the five years, the school will be returned to the original district’s control.

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We seek the flexibility to use the FY 2004 funds still available for any school formerly part of the New Orleans Public Schools district that has reopened or is scheduled to reopen, whether that school is still part of NOPS or a charter or state-run RSD school. NOPS has Letters of Agency (LOAs) signed in 2005 or 2006 for a large number of former-NOPS schools that are now charter/RSD schools or that are expected to reopen as charter/RSD schools, and has requested funding for them in FYs 2005 and 2006. If this petition is granted, NOPS will use the FY 2004 E-rate funds only for schools under its jurisdiction or for which it has LOAs.

Some of the schools that are scheduled to reopen and for which we would like to use the available FY 2004 funds did not qualify for discounts of 90% in February 2004, when the FY 2004 Form 471 was submitted. We ask that NOPS be able to use the available FY 2004 funds at a 90 percent discount rate (the rate for which all NOPS schools and former-NOPS charter schools qualify for FYs 2005 and 2006 based on the *Hurricane Katrina Order*) without regard to the discount rate for which they qualified for FY 2004. The 2004 discount rate has little meaning now because of the major exodus of population from New Orleans after the storm and the intra-city relocations that have occurred because of the varying degrees of damage to different neighborhoods. The Commission provided the 90 percent discount rate for internal connections for schools and libraries directly affected by Hurricane Katrina to help them “begin the task of developing a cogent, feasible, and sustainable plan to resume the provision of needed telecommunications and information services.”⁵ That purpose will be served by providing a 90 percent discount rate for FY 2004 internal connections funding for directly affected entities in New Orleans as well.

The task of rebuilding the New Orleans educational community hinges on providing safe and reliable schools throughout the district without regard to the administrative body (RSD, NOPS, or chartering agency) or to past boundaries based on physical location. Students in Orleans Parish will have the option over the next five years to attend any open school within the parish and will be provided services through shared services and agreements between NOPS, the charter schools, and RSD. In addition, because of the current state of public services, the rebuilding of housing, and the transient nature of the family units, the student population is fluid between school sites. This fluidity necessitates that all schools that can be opened in Orleans Parish work together in order to provide students a seamless transition between facilities and services while meeting all federal, state and local requirements.

The original E-Rate application was based on the circumstances as they existed at the time of application (i.e., prior to Hurricane Katrina). Therefore, the application only includes schools Orleans Parish believed would need services at that time – and does not reflect subsequent events and needs. For example, we have just learned that Harney Elementary can be opened for classes in September of 2006. Harney Elementary is not included in the original application; however, Harney Elementary needs to have wiring installed and be reconnected to the school network due to Hurricane Katrina damage. Without funding, Harney Elementary will not be able to provide students, teachers and school administrators with the basic technological needs required to open school.

Approval of this request will help schools in Orleans Parish meet these requirements and provide the services needed to reopen and rebuild the New Orleans educational community.

⁵ *Hurricane Katrina Order*, para. 44.

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REQUESTED ACTION

We ask that the Commission quickly provide notice that it is waiving its rules to permit the substitution of schools in the Block 4 worksheet for FCC Form 412169 and to permit all schools that will receive these funds to receive them at a discount rate of 90 percent.

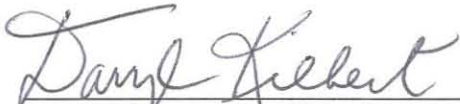

CONTACT

In the event the Commission needs more information regarding this request, please contact Carol Mosley with the Louisiana Department of Education at 225-342-1823 or carol.mosley@la.gov.

Sincerely,



Dr. Robin Jarvis, Acting Superintendent
Recovery School District


Darryl Kilbert, Acting Superintendent
Orleans Parish Schools
Cecil J. Picard
State Superintendent of Education

Attachments

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Attachment I**Block 4 Worksheet School Listing**

SCHOOL	ENTITY NUMBER	DISCOUNT PERCENT
ABRAMS ELEMENTARY SCHOOL	80173	90
ABRAMSON SENIOR HIGH SCHOOL	80189	90
ALFRED LAWLESS SENIOR HIGH	80037	90
ALLEN FUNDAMENTAL MAGNET SCHOOL	80008	90
ARMSTRONG ELEMENTARY	80035	90
BARBARA JORDAN ELEMENTARY SCH	80177	90
BAUDUIT ELEMENTARY SCHOOL	79996	90
BEHRMAN ELEMENTARY SCHOOL	79981	90
BELL JUNIOR HIGH SCHOOL	80087	90
BENJAMIN BANNEKER JR. ELEMENTARY	80064	90
BIENVILLE ELEMENTARY SCHOOL	80116	90
BOOKER T. WASHINGTON SECONDARY VOCATIONAL HIGH SCHOOL	80156	90
BRADLEY ELEMENTARY SCHOOL	80127	90
CAPDAU JUNIOR HIGH SCHOOL	80131	90
CARVER HIGH SCHOOL	80184	80
CHARLES J. COLTON MIDDLE SCHOOL	80052	90
CHESTER ELEMENTARY SCHOOL	80155	90
CLARK SR HIGH SCHOOL	80158	80
COGHILL ELEMENTARY SCHOOL	80172	90
COHEN HIGH SCHOOL	80011	90
CRAIG ELEMENTARY SCHOOL	80029	90
CROCKER ELEMENTARY SCHOOL	80014	90
CROSSMAN ELEMENTARY SCHOOL	80098	90
DIBERT ELEMENTARY SCHOOL	80091	90
DR CHARLES DREW ELEMENTARY	80042	90
DR RONALD E MCNAIR ELEM SCHOOL	80060	90
EAST NEW ORLEANS ED CENTER	202557	90
EASTON HIGH SCHOOL	80096	80
EDISON ELEMENTARY SCHOOL	80038	90
EDWARDS ELEMENTARY SCHOOL	80185	90
EISENHOWER ELEMENTARY SCHOOL	80215	90
ERNEST MORIAL SCHOOL	80179	90
FISCHER ELEMENTARY SCHOOL	79988	90
FISK-HOWARD ELEMENTARY SCHOOL	80095	90
FORTIER HIGH SCHOOL	80018	80
FRANTZ ELEMENTARY SCHOOL	80041	90
FREDERICK A DOUGLASS HIGH SCH	80043	90
GAUDET ELEMENTARY SCHOOL	80196	90
GENTILLY TERRACE ELEM SCHOOL	80128	90
GEORGE MONDY ELEMENTARY SCHOOL	80088	90
GEORGE WASHINGTON CARVER MIDDLE EXTENSION SCHOOL	164485	90
GREEN MIDDLE SCHOOL	80015	90
GREGORY JUNIOR HIGH SCHOOL	80120	80
GUSTE ELEMENTARY SCHOOL	79977	90
HABANS ELEMENTARY SCHOOL	79991	90

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HARDIN ELEMENTARY SCHOOL	80033	90
HARRIET R TUBMAN ELEM SCHOOL	79980	90
HENDERSON ELEMENTARY SCHOOL	79989	90
HENRY C SCHAUMBURG ELE SCHOOL	80123	90
HOFFMAN ELEMENTARY SCHOOL	80164	90
ISRAEL AUGUSTINE MIDDLE SCHOOL	80099	90
JACKSON ELEMENTARY SCHOOL	80204	90
JOHNSON ELEMENTARY SCHOOL	80057	90
JONES ELEMENTARY SCHOOL	80078	90
KENNEDY SR HIGH SCHOOL	80150	80
L.B. LANDRY LEARNING ACADEMY	230713	90
LAFAYETTE ELEMENTARY SCHOOL	80065	90
LAFON ELEMENTARY SCHOOL	80017	90
LAKE FOREST MONTESSORI	80175	80
LANGSTON HUGHES ELEM SCHOOL	80080	90
LAUREL ELEMENTARY SCHOOL	80206	90
LEWIS ELEMENTARY SCHOOL	80001	90
LITTLE WOODS ELEM SCHOOL	80188	90
LIVINGSTON MIDDLE SCHOOL	80178	90
LOCKETT ELEMENTARY SCHOOL	80045	90
LORD BEACONSVILLE LANDRY SCHOOL	79982	80
LORRAINE HANSBERRY ELEMENTARY	80046	90
MAHALIA JACKSON SCHOOL	79975	90
MARTIN LUTHER KING ELEM SCH	80036	90
MARTIN LUTHER KING JR. EXTENSION	184831	90
MARY BETHUNE ELEMENTARY SCH	80062	90
MARY CHURCH TERRELL ELEM SCH	80154	90
MCDONOGH ELEMENTARY SCHOOL 07	80054	90
MCDONOGH ELEMENTARY SCHOOL 15	80028	90
MCDONOGH ELEMENTARY SCHOOL 32	79985	90
MCDONOGH ELEMENTARY SCHOOL 42	80083	90
MCDONOGH HIGH SCHOOL 35	80025	80
MCDONOGH JUNIOR HIGH SCHOOL 28	80085	90
MCDONOGH SENIOR HIGH SCHOOL	80082	80
MORRIS F.X. JEFF SR. ELEMENTARY SCHOOL	80089	90
MOTON ELEMENTARY SCHOOL	80157	90
NELSON ELEMENTARY SCHOOL	80079	90
NEW ORLEANS ALTERNATIVE HIGH SCHOOL	212103	90
NEW ORLEANS CHARTER MIDDLE SCHOOL	202559	90
NEW ORLEANS CREATIVE ARTS CTR	80071	80
NEW ORLEANS FREE SCHOOL	79995	90
O. PERRY WALKER EXTENSION SCHOOL	203621	90
ORETHA CASTLE HALEY ELEMENTARY	80050	90
OSBORNE ELEMENTARY SCHOOL	80169	90
PARKVIEW FUNDAMENTAL SCHOOL	80176	90
PAUL DUNBAR ACCELERATED SCHOOL	80058	90
PHILLIPS JUNIOR HIGH SCHOOL	80115	90
RABOUIN CAREER MAGNET HIGH	80203	90
REED SR HIGH SCHOOL	80202	80
ROSENWALD ELEMENTARY SCHOOL	80211	90
SHAW ELEMENTARY SCHOOL	80048	90
SHERWOOD FOREST ELEM SCHOOL	80199	90
THURGOOD MARSHALL MIDDLE SCH	80092	90

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TUREAUD A P ELEMENTARY SCHOOL	80023	90
URBAN LEAGUE ST ACAD SCHOOL	79970	90
VILLAGE DEL'EST ELEM SCHOOL	80201	90
VORICE JACKSON WATERS ELE SCH	80114	90
WALKER O PERRY HIGH SCHOOL	79983	90
WHEATLEY ELEMENTARY SCHOOL	80086	90
WICKER ELEMENTARY SCHOOL	79971	90
WILLIAMS ELEMENTARY SCHOOL	80160	90
WILLIAMS MIDDLE SCHOOL	80195	90
WILSON ELEMENTARY SCHOOL	80166	90
WOODSON MIDDLE SCHOOL	79976	90
WRIGHT MIDDLE SCHOOL	80004	90